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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,376	12/29/2000	Min Zhu	M-8858 US	2401

7590 05/14/2004
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EXAMINER

BANANKHAH, MAJID A

ART UNIT PAPER NUMBER

2127

DATE MAILED: 05/14/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/752,376

Applicant(s)

ZHU ET AL.

Examiner

Majid A Banankhah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. This office action is in response to application filed on December 29, 2000. Claims 1-16 are considered for examination.

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-16 of the present application are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of U.S. Patent No. 6,567,813 (hereinafter '813'). Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons.

For example, in claim 1 of the present application, the first five steps of the claim are literally the first five steps of claim 1 of the Patent '813' respectively. The last step in claim 1 recites "discovering the presence of each other said management process using a communications module in each respective management process" is same as "obtaining state information" in the patent '813' because as stated in the specification of patent '813' (See specification of '813' patent in col. 9, lines 8-12, server recovers its state information (e.g., information describing its configuration, operating or ...) from the local meeting zone's gatekeeper). Additionally, the wherein clause, i.e. "wherein each said management process further comprises a transaction

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server” is part of the recitation in last paragraph of claim 1 in the patent ‘813’, i.e. “combining said state information with load information to create quality of service (QoS) value; and modifying said partitioned based on said QoS value”, because the communication is established between server processing transaction in the patent. In other words, claim 1 in the present application is broader than claim 1 in the patent. One ordinary skill in the art would be motivated to use less sub-steps in order to expedite the process or method.

Claim 2 is rejected because secure interprocess communications is well known in the art for the reason that communications be carried out in a secure environment. Therefore, it would have been obvious for one ordinary skill in the art at the time the invention was made to implement a security policy as part of the communication between processes to make secure communication.

Claim 3 is rejected because, it is well known in the art to choose a server as a central coordinator in a collaborative environment because efficiency is increased this way and it prevents bottleneck problem. Therefore, it would have been obvious for one ordinary skill in the art at the time the invention was made to assign one of the servers as the coordinator in order to reduce overhead of coordination and increase efficiency.

Claim 4 is rejected because, the state information is passed between the management process in the independent claim and coordinator process is one of the management processes.

For the rejection of claims 5-8, 9-12, and 13-16, see the rejection of claims 1-5 stated above.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Majid A. Banankhah** whose voice telephone number is **(703) 308-6903**. A voice mail service is also available at this number.

All response sent to U.S. Mail should be mailed to:

Commissioner of Patent and Trademarks

Washington, D.C. 20231

Hand-delivered responses should be brought to Crystal Park Two, 2021 Crystal Drive, Arlington, VA, Six Floor (Receptionist). All hand-delivered responses will be handled and entered by the docketing personnel. Please do not hand deliver responses to the Examiner.

All Formal or Official Faxes must be signed and sent to either (703) 308-9051 or (703) 308-9052. Official faxes will be handled and entered by the docketing personnel. The date of entry will correspond to the actual FAX reception date unless that date is a Saturday, Sunday, or a Federal Holiday within the District of Columbia, in which case the official date of receipt will be the next business day. The application file will be promptly forwarded to the Examiner unless the application file must be sent to another area of the office, e.g., Finance Division for fee charging, etc.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is **(703) 305-9600**.

Maid Banankhah

5/5/04


MAJID BANANKHAH
PRIMARY EXAMINER